

1958 No. 597

NATIONAL INSURANCE

**NATIONAL INSURANCE (INDUSTRIAL
INJURIES)**

**The National Insurance and Industrial Injuries
(France) Order 1958**

Made - - - -

3rd April 1958

[Bilateral and multilateral reciprocal social security agreements between the United Kingdom and other Member States of the European Communities have generally been superseded, for nationals of those States, by the provisions of Council Regulations (EEC) Nos. 1408/71 and 574/72 to the extent provided by Article 6 of Regulation (EEC) No. 1408/71 subject to the exceptions prescribed by that Article and set out in Articles 7, 8 and 46(4) of that Regulation. The following Instrument, while generally superseded for the above reason, may still be of interest in its effect on persons or matters excepted from, or otherwise not covered by, that Regulation.]

[Under S.I. 1976/225, references in the following Order to provisions of the National Insurance Acts 1965 to 1974 and the National Insurance (Industrial Injuries) Acts 1965 to 1974 have effect, with certain modifications, as references to the corresponding or most nearly corresponding provisions of the Social Security Act 1975 (c.14).]

[Provisions in the following Order relating to the calculation of retirement pension, widow's benefit or invalidity pension under U.K. legislation are modified, as to any additional pension payable, by S.I. 1979/290.]

[Under S.I. 1988/591, any provision in the following Order relating to the calculation of widow's allowance under U.K. legislation includes a reference to a widow's payment under U.K. legislation.]

[Under art. 2 of S.I. 1995/767 the SSC & B Act 1996 (c.4), the SSA Act 1992 (c.5) and the Jobseekers Act 1995 (c.18) are modified so that the effect can be given to the proposal that any references in the Agreement set out in the Schedule to this Order, to sickness benefit, invalidity benefit or invalidity pension under UK legislation shall include short-term incapacity benefit or long-term incapacity benefit and to the proposal that any provisions relating to the calculation or payment of the former benefits apply also to the appropriate latter benefit.]

[Under art. 2 of S.I. 1996/1928, the SSC & B Act 1996 (c.4), the SSA Act 1992 (c.5) and the Jobseekers Act 1995 (c.18) are modified. The effect will be that any reference, in the Agreement set out in the Schedule to this Order, to unemployment benefit shall include a reference to contribution-based jobseeker's allowance. Also any definition, in that Agreement, of legislation to which the Agreement applies shall be read as including a reference to the Jobseekers Act 1995.]

At the Court at Buckingham Palace, the 3rd day of April, 1958

Present,

The Queen's Most Excellent Majesty in Council

Whereas at Paris on the tenth day of July, nineteen hundred and fifty-six, a Convention between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the French Republic on social security (which Convention is set out in the Schedule hereto) was signed on behalf of those Governments:

And Whereas by Article 49 of the said Convention it was provided that the Convention should enter into force on the first day of the second month following the month in which the instruments of ratification had been exchanged:

And Whereas the said Convention has been ratified by the Governments of the United Kingdom of Great Britain and Northern Ireland and of the French Republic and the instruments of ratification were exchanged on the 31st day of March, 1958, and accordingly the said Convention enters into force on the first day of May, 1958:

And Whereas by section 64 of the National Insurance Act 1946^(a) and section 85 of the National Insurance (Industrial Injuries) Act 1946^(b) it is provided that Her Majesty may by Order in Council make provision for modifying or adapting those Acts in their application to cases affected by agreements with other governments providing for reciprocity in the matters specified in those sections:

Now, therefore, Her Majesty, in pursuance of the said section 64 of the National Insurance Act 1946 and the said section 85 of the National Insurance (Industrial Injuries) Act 1946, and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:-

Citation, commencement and interpretation

1.—(1) This Order may be cited as the National Insurance and Industrial Injuries (France) Order 1958.

(2) The Interpretation Act 1889^(c) applies to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

Modification of Acts

2. The provisions contained in the Convention set out in the Schedule to this Order shall have full force and effect, so far as the same relate to England, Wales and Scotland and provide by way of agreement with the Government of the French Republic for reciprocity in any matter specified in either subsection (1) of section 64 of the National Insurance Act 1946 or subsection (1) of section 85 of the National Insurance (Industrial Injuries) Act 1946, and the National Insurance Acts 1946 to 1957 and the National Insurance (Industrial Injuries) Acts 1946 to 1957 shall have effect subject to such modifications as may be required therein for the purpose of giving effect to the said provisions.

W.G. Agnew

(a) 1946 c.67.

(b) 1946 c.62.

(c) 1889 c.63.

SCHEDULE
CONVENTION
ON SOCIAL SECURITY BETWEEN THE UNITED
KINGDOM AND FRANCE

Paris, July 10, 1956

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the French Republic,

Being resolved to co-operate in the social field,

Affirming the principle that the nationals of one Contracting Party should receive under the social security legislation of the other equal treatment with the nationals of the latter,

Desirous of giving effect to this principle and of making arrangements enabling their nationals who go from the territory of one Party to the territory of the other either to keep the rights which they have acquired under the legislation of the former party or to enjoy corresponding rights under the legislation of the latter,

Desirous further of making arrangements for insurance periods completed under the legislation of the two Parties to be added together for the purpose of determining the right to receive benefit,

Have agreed as follows:-

PART I
DEFINITIONS

Article 1

For the purpose of the present Convention—

(1) “territory” means, in relation to the United Kingdom, England, Scotland, Wales, Northern Ireland and the Isle of man, and, in relation to France, Metropolitan France, its overseas Departments (Guadaloupe, French Guiana, Martinique and Reunion) and Algeria;

(2) “national” means, in relation to the United Kingdom, a citizen of the United Kingdom and Colonies, and, in relation to France, a person having French nationality and any French protected person belonging to French Togoland or the French Cameroons;

(3) “legislation” means, according to the context, the laws, orders and regulations specified in Article 2 in force in any part of the territory of one (or the other) Contracting Party;

(4) “competent authority” means, in relation to the United Kingdom, the Minister of Pensions and National Insurance, the Ministry of Labour and National Insurance for Northern Ireland or the Isle of Man Board of Social Services, as the case may require, and, in relation to France, the Ministers responsible for the legislation specified in Article 2;

(5) “social security authority” means, in relation to the United Kingdom, the Ministry of pensions and National Insurance, the Ministry of Labour and National Insurance for Northern Ireland or the Isle of Man Board of Social Services, or the Statutory Authorities appointed to determine questions under the legislation of the United Kingdom, as the case may require, and, in relation

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to France, the appropriate administrative authority specified in the legislation of France;

(6) “employed person” means a person who comes within the definition of an employed person (or a person who is treated as an employed person) in the legislation which is being applied; “employment” means employment as an employed person, and the words “employ” and “employer” refer to such employment;

(7) “dependant” means, in relation to the United Kingdom, a person who would be treated as such for the purpose of any claim to receive benefit in respect of a dependant under the legislation of the United Kingdom, and in relation to France, a person who comes within the definition of a dependant in the legislation of France;

(8) “insurance period” means, in relation to the United Kingdom, a period in respect of which contributions, appropriate to the benefit in question, have been paid under the legislation of the United Kingdom, and, in relation to France, an insurance period or contribution period recognised under the legislation of France;

(9) “equivalent period” means, in relation to the United Kingdom, a period in respect of which contributions, appropriate to the benefit in question, have been credited under the legislation of the United Kingdom, and, in relation to France, a period recognised under the legislation of France as equivalent to an insurance period;

(10) The words “benefit” and “pension” include any increase in the benefit or pension and any additional allowances therewith;

(11) “sickness benefit” means, in relation to the United Kingdom, sickness benefit as defined in the legislation of the United Kingdom, other than invalidity pension, and, in relation to France, sickness benefit as defined in the legislation of France;

(12) “invalidity pension” means—

- (a) in relation to the United Kingdom, sickness benefit as defined in the legislation of the United Kingdom.
 - (i) which becomes payable to a person in respect of a period of interruption of employment as defined in that legislation after he has been entitled in that period to receive such benefit for three hundred and twelve days; or
 - (ii) which becomes payable by the social security authority of the United Kingdom in accordance with the provisions of paragraph (3) or (4) of Article 19;
- (b) in relation to France, invalidity pension as defined in the legislation of France;

(13) “old age pension” means, in relation to the United Kingdom, a contributory old age pension or retirement pension as defined in the legislation of the United Kingdom, and, in relation to France, an old age pension, or annuity or allowance as defined in the legislation of France which is payable by virtue of the payment of contributions to a sufficient amount;

(14) “benefit in respect of death” means a lump sum payment made in respect of death.

PART II**SCOPE****Article 2**

(1) The provisions of the present Convention shall apply—

(a) in relation to the United Kingdom to—

(i) the National Insurance Act, 1946, the National Insurance Act

- (Northern Ireland), 1946, the National Insurance (Isle of Man) Act, 1948, and the legislation in force before the 5th July, 1948, which was replaced by those Acts;
- (ii) the National Insurance (Industrial Injuries) Act, 1946, the National Insurance (Industrial Injuries) Act (Northern Ireland), 1946, and the National Insurance (Industrial Injuries) (Isle of Man) Act, 1948;
- (b) in relation to France, to—
- (i) the legislation relating to the organisation of the social security schemes;
- (ii) the social insurance legislation applicable to persons employed in non-agricultural employment, and concerning insurance against sickness, invalidity, old age and death, and benefits in respect of maternity expenses;
- (iii) the social insurance legislation applicable to persons employed and persons treated as employed in agricultural employment, and concerning the same insurance and benefits;
- (iv) the legislation relating to the contributory scheme for old age allowances for non-employed persons;
- (v) the legislation on the prevention of, and compensation for, industrial accidents and occupational diseases;
- (vi) special social security schemes, in so far as they deal with the insurance or benefits covered by the legislation specified in the foregoing paragraphs, and, in particular, the scheme of social security in the mining industry.

(2) Subject to the provisions of paragraphs (3) and (4) of this Article, the Convention shall also apply to any law, order or regulation which amends, supplements or consolidates the legislation specified in paragraph (1) of this Article.

(3) The Convention shall apply to laws, orders or regulations which extend insurance to new classes of persons or relate to a new branch of social security, unless either Contracting Party decides that it shall not apply and gives notice to the other to that effect within three months of the official communication of the said legislation in accordance with Article 37 of the Convention.

(4) The Convention shall apply to laws, orders and regulations which amend the legislation specified in paragraph (1) of this Article for the purpose of giving effect to a reciprocal agreement on social security only if the Contracting Parties so decide.

PART III

GENERAL PROVISIONS

Article 3

A national of one Contracting Party shall be entitled to receive the benefits of the legislation of the other Party under the same conditions as if he were a national of the latter Party.

Article 4*

(1) Subject to the provisions of paragraph (2) of this Article and or Articles 5, 9 and 10 where a national of either Contracting Party is employed in the territory of one Party he shall be insured as an employed person under the legislation of that Party, even if he is ordinarily resident in the territory of the other Party, and even if his employer or the principal place of business of the undertaking which

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employs him is in the latter territory.

- (2)(a) Where a national of either Party, who is ordinarily resident in the territory of one Party and is in the service of an employer who is ordinarily resident in the territory of that Party or has a place of business there, is employed in the territory of the other Party, the legislation of the former Party shall apply to that person as if he were employed in the territory of the former Party, provided that his employment in the latter territory is not expected to last for a period of more than six months. If his employment in the latter territory should for unforeseen reasons continue after such period of six months, the legislation of the former Party shall continue to apply to him for any further period of not more than six months, provided that the competent authority of the latter Party agrees thereto.
- (b) Where a national of either Party, who is ordinarily resident in the territory of one Party, is employed by a transport undertaking whose principal place of business is in the territory of that Party, on road or rail vehicles in the territory of the other Party, the legislation of the former Party shall apply to him.

**Article 4 is modified, in relation to British teachers working in France, by the Exchange of Letters reproduced in the Annex to this S.I.*

Article 5

(1) For the purpose of this Article, “vessel or aircraft of one (or the other) Party” means, according to the context,

- (a) a ship or vessel, registered in the territory of the United Kingdom, or any other ship or vessel defined as British for the purposes of United Kingdom legislation of which the owner (or managing owner, if there is more than one owner) or manager resides or has his principal place of business in the territory of the United Kingdom, or an aircraft, registered in that territory, of which the owner (or managing owner, if there is more than one owner) resides or has his principal place of business in that territory, or
- (b) a ship or vessel registered in the territory of France, or an aircraft registered in the territory of France, including transport, general purposes, prototype test and production test aircraft, as defined in the French legislation concerning civil aviation.

(2) Subject to the provisions of paragraph (3) of this Article, where a national of either Contracting Party, ordinarily resident in the territory of one Party, is employed on board any vessel or aircraft of the other Party, the legislation of the latter Party shall apply to him, as if any conditions relating to nationality, residence or domicile were satisfied in his case.

(3) Where a national of either Party, ordinarily resident in the territory of one Party and employed on board any vessel or aircraft of the other Party, is paid remuneration in respect of that employment by some person or undertaking having a place of business in the territory of the former Party and not the owner of the vessel or aircraft, the legislation of the former Party shall, in respect of that employment, apply to that national as if the vessel or aircraft were a vessel or aircraft of the former Party, and the person or undertaking paying the said remuneration shall be treated as the employer for the purposes of such legislation.

(4) A ship or vessel, built in the territory of one Party for a person or undertaking whose principal place of business is in the territory of the other Party, shall be deemed to be a vessel of the latter Party during the period which elapses between the beginning of the operation of launching and the registration of such a ship or vessel, and the provisions of paragraph (4) of this Article shall

apply as if the said person or undertaking were the owner of the vessel.

Article 6

(1) Students and apprentices who, having been insured under the legislation of France, are temporarily employed in the territory of the United Kingdom shall, subject to the provisions of paragraph (2) of Article 4 of this Convention, be insured under the legislation of the United Kingdom in respect of that employment and, in the case of such students and apprentices, the provisions of that legislation which except students and apprentices ordinarily resident outside the territory of the United Kingdom from insurance in respect of employment shall not apply.

(2) The provisions of the legislation of France shall apply to students and apprentices who are nationals of the United Kingdom and who are in the territory of France, under the same conditions as they apply there to students and apprentices who are nationals of France.

Article 7

Where a national of either Contracting Party is ordinarily engaged on his own account in an occupation in the territory of one Party, the legislation of that Party shall apply to him even if he is ordinarily resident in the territory of the other Party.

Article 8

The competent authorities of the two Contracting Parties may agree that the provisions of Articles 4, 5, 6 and 7 shall not apply in particular cases.

Article 9

(1) The present Convention shall not apply to established members of the Foreign Service of either Contracting Party.

(2) Subject to the provisions of paragraph (1) of this Article,

- (a) (i) French civil servants (fonctionnaires) employed in the territory of the United Kingdom shall be insured under the legislation of France;
- (ii) Where a national of France, to whom the foregoing provisions of this sub-paragraph do not apply, is employed in a public service of France in the territory of the United Kingdom, or is employed there by a diplomatic or consular official of France in his personal capacity, the legislation of the United Kingdom shall apply to him.
- (b) (i) Where an established member of the Government service of the United Kingdom, or an established civil servant of Northern Ireland, is employed in the territory of France, the legislation of the United Kingdom shall apply to him as if he were employed in the territory of the United Kingdom.
- (ii) Where a national of the United Kingdom, to whom the foregoing provisions of this sub-paragraph do not apply, is employed in the Government service of the United Kingdom in the territory of France, or is employed there by a diplomatic or consular official of the United Kingdom in his personal capacity, the legislation of France shall apply to him.

(3) The competent authorities of the two Contracting Parties may agree on the modification or extension of the provisions of this Article in relation to particular cases.

Article 10

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(1) Where a national of either Contracting Party is employed in the territory of one Party and the legislation of the other applies to him in accordance with the provisions of paragraph (2) of Article 4, or of paragraph (2) of Article 9, he shall, for the purpose of any claim to receive cash benefits for sickness, maternity, industrial accident or disease, under such legislation, be treated—

- (a) in respect of sickness and maternity benefit as if he were in the territory of the latter Party, and
- (b) in respect of benefit for an industrial accident occurring or an industrial disease contracted during such employment as if the accident had occurred, or the disease had been contracted in the territory of the latter party.

(2) Where a national of either Party has been employed on board any vessel or aircraft of one Party and the legislation of that Party applied to him, in accordance with the provisions of paragraph (2) of Article 5, he shall, while he is in the territory of the other Party, be treated for the purpose of any claim to receive cash benefit for sickness for a disease which was contracted, or a disablement which occurred during such employment, as if he were in the territory of the former Party.

Article 11

Where a national of either Contracting Party is ordinarily resident in the territory of the United Kingdom and is employed in the territory of France by an employer who is ordinarily resident in the former territory or has a place of business there, he shall be treated, for the purpose of any claim to receive unemployment benefit under the legislation of the United Kingdom, as if a contribution had been credited to him as an employed person under that legislation for each week during which he was so employed and for which a contribution has not been paid in accordance with the provisions of paragraph (2) of Article 4.

Article 12

Where a national of either Contracting Party, who is ordinarily resident in the territory of France and has been compulsorily insured under the legislation of the United Kingdom, claims the right to be voluntarily insured under the legislation of France, he shall be entitled, subject to conditions which shall be prescribed in an administrative arrangement made in accordance with the provisions of Article 37, to become so insured as if he had ceased to be subject to compulsory insurance under the legislation of France, and for this purpose, any period of compulsory insurance completed under the legislation of the United Kingdom shall be treated as if it had been a period of compulsory insurance completed under the legislation of France.

PART IV**SPECIAL PROVISIONS****Section 1****Benefits in respect of Sickness, Maternity and Death****Article 13**

A national of either Contracting Party who has completed an insurance period

under the legislation of one Party shall be entitled, together with his dependants to receive the benefits provided under the legislation of the other Party in respect of sickness, maternity and death, provided that—

- (1) he has begun a period of compulsory insurance under the legislation of the latter Party after the date on which he entered the territory of that Party;
- (2) he satisfies the conditions laid down by the legislation of the latter Party; and for this purpose, any insurance period or equivalent period completed under the legislation of the former Party shall be treated, subject to the provisions of Article 30, as if it had been completed under the legislation of the latter Party, provided that, where, at the date on which he entered the territory of the latter Party, he satisfied the conditions relating to insurance, contributions or employment for benefit under the legislation of the former Party, he may, at the discretion of the social security authority of the latter Party, be treated during the six months following that date as if he satisfied the corresponding conditions for benefit under the legislation of that Party;
- (3) in the case of maternity, where a ►person◄ would be entitled to receive benefit under the legislation of one Party by virtue of her own insurance, and under the legislation of the other Party by virtue of her ►spouse or civil partner’s◄ insurance, she shall be entitled to receive benefit only under the legislation of the Party in whose territory she is confined, provided that, where maternity benefit has already been paid before the date of the confinement under the legislation of the United Kingdom, no further benefit shall be payable under the legislation of France.

Words substituted in arts. 13(3) and 14(1) by art. 2 of S.I. 2005/2675 as from 5.12.05.

Article 14

(1) Where a ►person◄ being a national of either Contracting Party, is insured under the legislation of one Party, or is the ►spouse or civil partner◄ of a person so insured, and is in, or is confined in, the territory of the other Party, she shall, for the purpose of any claim to receive maternity benefit in cash under the legislation of the former Party, be treated as if she were in, or had been confined in, the territory of the former Party.

(2) For the purpose of applying this Article “maternity benefit” means, in relation to the United Kingdom, maternity benefit other than home confinement grant.

Article 15

(1) A national of either Contracting Party, who goes from the territory of one Party to the territory of the other for the specific purpose of being treated for a disease which was contracted, or a disablement which occurred, before he left the former territory, shall, while in the latter territory, remain entitled to receive sickness benefit in cash from the social security authority of the former Party provided that the said authority has agreed thereto and for such period as that authority may allow.

(2) This Article shall not apply to nationals of either Party who would not be qualified for sickness benefit apart from the provisions of Article 13 of the present Convention.

Article 16

(1) Where a national of either Contracting Party, who is ordinarily resident in the territory of one Party and has completed an insurance period under the legislation of that Party, becomes incapable of work by reason of a disease contracted or a disablement occurring in the territory of the other at a time when the legislation of the latter Party applies to him, and returns to the territory of the

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former Party, he shall receive sickness benefit for that disease or disablement in accordance with the provisions of the legislation of the former Party; and, for this purpose, any insurance period or equivalent period completed by him under the legislation of the latter Party shall be treated, subject to the provisions of Article 30, as if it had been completed under the legislation of the former Party.

(2) The provisions of the present Article shall not apply unless the disease was contracted or the disablement occurred within six months after the date on which the said national entered the territory of the latter Party.

Article 17

(1) Where a national of either Contracting Party is entitled to receive a pension under the legislation of both Parties by virtue of the provisions of Article 22 of the present Convention, he shall be entitled, while he is resident in the territory of France, to receive medical benefit in accordance with the provisions of the legislation of France, relating to sickness and maternity benefit, and the cost of such benefit shall be borne by the appropriate social security authority of France.

(2) Where a national of either Contracting Party is entitled to receive a pension under the legislation of the United Kingdom relating to old age or industrial injuries insurance, or is entitled to receive an invalidity pension under the legislation of the United Kingdom, he shall be entitled, while he is resident in the territory of France, to receive medical benefit in accordance with the provisions of the legislation of France provided that contributions for that purpose have been paid in accordance with rules made by the appropriate authorities of France.

Article 18

(1) If a national of either Contracting Party dies in the territory of one Party he shall, for the purpose of any claim to receive benefit in respect of his death under the legislation of the other Party, be treated as if he had died in the territory of the latter Party.

(2) Where a national of either Party, who is in the territory of one Party, claims benefit under the legislation of the other Party in respect of a death, he shall be treated as if he were in the territory of the latter Party.

(3) Benefit shall not be payable under the legislation of both Parties in respect of the same death, unless the right to receive such benefit under the legislation of both Parties exists independently of the provisions of the present Convention.

(4) In cases where the preceding paragraph of this Article prevents a double payment, the following provisions shall apply:-

- (a) if the death occurs in the territory of one Party, the right under the legislation of that Party shall be preserved and the right under the legislation of the other Party shall be extinguished;
- (b) if the death does not occur in the territory of either Party, the right under the legislation under which the deceased last completed an insurance period before his death shall be preserved and the right under the other legislation shall be extinguished.

Section 2 Invalidity Pensions

Article 19

(1) Where a national of either Contracting Party has completed insurance periods or equivalent periods under the legislation of both Parties, such periods shall be added together in accordance with the provisions of Article 30 for the purpose of determining his right to receive an invalidity pension.

(2) Subject to the provisions of paragraphs (3) and (4) of this Article, any invalidity pension shall be paid in accordance with the provisions of the legislation under which the national was last insured in respect of his employment before he became incapable of work, and the cost of such pension shall be borne by the social security authority which is responsible under that legislation.

(3) Where a national of either Party, who has completed a period of insurance under the legislation of one Party, becomes incapable of work in the territory of the other Party, having been insured under the legislation of that Party for less than one year after the date on which he last entered that territory, any invalidity pension shall be paid in accordance with the provisions of the legislation of the former Party, and the cost of such pension shall be borne by the social security authority which is responsible under that legislation, provided that this legislation shall not apply if the invalidity is due to an accident.

(4) If, after suspension of an invalidity pension granted under the legislation of one (or the other) Party, the national again becomes an invalid within a period of one year, the social security authority which originally granted the pension shall be responsible for resuming the payment of such pension, in accordance with the provisions of its own national legislation, provided that the national has not become entitled to receive any cash benefit under the legislation of the other Party; where, however, the amount of such benefit is less than the amount of the invalidity pension, the payment of which would otherwise be resumed by the authority of the former Party, that authority shall pay to the national concerned the amount by which invalidity pension exceeds the said benefit.

(5) If, after payment of an invalidity pension has ceased, the national again becomes an invalid, his right to an invalidity pension shall be determined in accordance with the provisions of paragraph (1), (2) and (3) of this Article.

Article 20

Where, under the legislation of one Contracting Party, a national of either Party would be entitled to receive an invalidity pension if he were in the territory of that Party, he shall be entitled to receive that pension while he is in the territory of the other party.

Article 21

An invalidity pension shall be converted where appropriate into an old age pension under the conditions of the legislation by virtue of which it was granted.

Section 3

Benefits in respect of Old Age and death of a spouse or civil partner

Words in heading to section 3 substituted by art. 2 of S.I. 2005/2765 as from 5.12.05.

Article 22

(1) Subject to the provisions of Article 24, where a national of either Contracting Party submits a claim to receive an old age pension by virtue of

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insurance periods and equivalent periods completed under the legislation of both Parties, his claim shall be determined in accordance with the provisions of this Article.

(2) The appropriate social security authority of each Party shall determine, in accordance with its own national legislation, whether the national satisfies the conditions for receiving a pension under that legislation and for this purpose shall take into account all the insurance periods and equivalent periods completed by him under the legislation of the two Parties as if they had been completed under its own national legislation.

(3) Where the right to a pension is established in accordance with the provisions of paragraph (2) of this Article, the social security authority of each Party shall calculate—

- (a) the pension which would have been due to the national under its own national legislation if all the insurance periods and equivalent periods completed by him under the legislation of both Parties, calculated in accordance with the provisions of Article 30, had been completed under its own national legislation, and
- (b) that part of such pension which bears the same relation to the whole as the total of all the insurance periods and equivalent periods completed by the national under its own national legislation bears to the total of all the insurance periods and equivalent periods completed by him under the legislation of both Parties.

The part thus calculated shall be the pension actually due to the national from the social security authority concerned.

(4) In calculating the amount of pension payable under the legislation of France by virtue of the provisions of this Section of the present Convention, insurance periods and equivalent periods completed under the legislation of the United Kingdom shall be treated as insurance periods or equivalent periods completed under the general social security schemes of France.

(5) Where the total of all the insurance periods and equivalent periods completed by a national under the legislation of one (or the other) Party is less than six months, no pension shall be paid under the legislation of that Party.

(6) For the purpose of applying this Article, an insurance period or equivalent period completed by a national shall be deemed to mean an insurance period or equivalent period completed by the ►spouse or civil partner◄ of a national in those cases where the national concerned in a ►person◄ claiming an old age pension by virtue of ►his or◄ her ►spouse or civil partner's◄ insurance.

Words in art. 22(6) substituted by art. 2 of S.I. 2005/2765 as from 5.12.05.

Article 23

Where a national of either Contracting Party does not simultaneously satisfy the conditions laid down by the legislation of both Parties, his right to receive a pension under the legislation of each Party shall be established as and when he satisfies the conditions laid down by the legislation of that Party, account being taken of the provisions of Article 22.

Article 24

(1) A national of either Contracting Party may, at the time when his right to receive a pension is established, choose not to take advantage of the provisions of Article 22 of the present Convention. In that case any old age pension which he is entitled to receive under the legislation of each Party shall be paid to him separately by its social security authority without regard to insurance periods completed by him under the legislation of the other Party.

(2) Such national shall be entitled to make a fresh choice between taking

advantage of the provisions of Article 22 and those of this Article, if it is in his interest to do so, either when the legislation of either Party is amended, or when he goes from the territory of one Party to that of the other, or when, in accordance with the provisions of Article 23, his right to a pension is established or extended under the legislation of either Party.

Article 25

(1) Subject to the provisions of paragraph (2) of this Article where, under the legislation of one Contracting Party, a national of either Party would be entitled to receive an old age pension if he were in the territory of that Party, he shall be entitled to receive that pension while he is in the territory of the other Party.

(2) In any case where a person left the territory of the United Kingdom before the 30th September, 1946, the rate of pension he is entitled to receive under the legislation of the United Kingdom by virtue of the foregoing provisions of this Article shall be determined as follows:-

- (a) if the pension was paid before the national left the territory of the United Kingdom, the rate shall be the rate applicable in that territory at the time when the pension was last paid;
- (b) if the pension was not paid before the national left the said territory by reason of delay in making, or failure to make, a claim the rate shall be the rate of pension which the national would have been entitled to receive immediately before leaving the said territory if a claim had been made at that time;
- (c) if the pension was not paid before the national left the said territory because the national (or ►his or◄ her ►spouse or civil partner◄, as the case may be) had not then attained pensionable age, the rate shall be the rate at which the pension would have been paid at that age had the national remained in the said territory until the national (or ►his or◄ her ►spouse or civil partner◄ as the case may be) attained that age and made a claim.

Words substituted in
arts. 25(2)(c) and 26 by
art. 2 of S.I. 2005/2765
as from 5.12.05.

(3) If at any time the rates of old age pensions awarded under the legislation of the United Kingdom before the 1st October, 1946, and payable to pensioners resident outside the United Kingdom are generally increased, similar increases shall be applied from the same date to such pensioners resident in the territory of France.

Article 26

Subject to such modifications as the differing nature of the pensions shall require, the provisions of this Section of the present Convention shall apply to benefits in respect of ►death of a spouse or civil partner◄ provided under the legislation of the United Kingdom and to reversionary pensions for ►widow, widower or surviving civil partner's◄ under the legislation of France.

Section 4

Industrial Accidents and Diseases

Article 27

Where, under the legislation of one Contracting Party relating to industrial accidents and diseases, a national of either Party would be entitled to receive a benefit if he were in the territory of that Party, he shall be entitled to receive that benefit while he is in the territory of the other Party.

Article 28

In assessing, for the purposes of the legislation of one Contracting Party, the degree

of disablement due to an industrial accident, any previous industrial accident for which benefit is payable under the legislation of the other Party shall be treated as if it were an industrial accident covered by the legislation of the former Party.

Article 29

Where a national of either Contracting Party, having received a benefit for an industrial disease under the legislation of one Party, submits a claim under the legislation of the other Party to receive a benefit for an industrial disease of the same kind, the social security authority of the latter Party shall be responsible for obtaining evidence as to the benefit previously paid in respect of the same disease, and shall treat that benefit as if it had been granted under its own legislation.

Section 5

General Provisions

Article 30

(1) In applying the provisions contained in Articles 13, 19 and 22 relating to the adding together of insurance periods and equivalent periods for the purpose of establishing the right to receive benefit, the social security authority of each Contracting Party, having regard to the relevant provisions of its own national legislation, shall add to any insurance periods and equivalent periods completed under that legislation any insurance periods and equivalent periods completed under the legislation of the other Party, except to the extent that the latter coincide with the former.

(2) The provisions of paragraph (1) of this Article shall be applied in accordance with the following rules:-

- (a) where a period of compulsory insurance, completed under the legislation of one Party, coincides with a period of voluntary insurance completed under the legislation of the other, only the period of compulsory insurance shall be taken into account;
- (b) where an insurance period, completed under the legislation of one Party, coincides with an equivalent period completed under the legislation of the other Party, only the insurance period shall be taken into account;
- (c) where an equivalent period completed under the legislation of one Party coincides with an equivalent period completed under the legislation of the other Party, account shall be taken only of the equivalent period completed under the legislation of the Party in whose territory the national concerned was last employed before the beginning of such period or, if he was not so employed, only of the equivalent period completed under the legislation of the Party in whose territory he is first employed after the end of such period.

Article 31

Where under the legislation of either Contracting Party the amount of any cash benefit is related to the average wage earned during insurance periods, the average wage to be taken into account for the calculation of the benefit due to be paid under that legislation shall be calculated on the basis of the wages earned during the insurance periods actually completed under that legislation.

Article 32

Where, under the provisions of this Part of the present Convention, any cash benefit is payable by the social security authority of one Contracting Party to a person who is resident in the territory of the other Party, the payment may at the request of that authority, be made by the social security authority of the latter Party as agent for the authority of the former Party.

Article 33

Where payment of any benefit is made by the social security authority of France as agent for the social security authority of the United Kingdom in accordance with the provisions of Article 32,

- (1) payment shall be made, except in the case of a lump sum, in arrear at intervals of three months;
- (2) the provisions of the legislation of the United Kingdom relating to the reduction or suspension of benefit on account of earnings shall be applied by the social security authority of France;
- (3) any question arising out of a decision given by the social security authority of France in accordance with the provisions of paragraph (2) of this Article shall be determined under the procedure for settling disputes laid down by the legislation of France.

Article 34

(1) In all cases where, under the legislation of one Contracting Party, any cash benefit would be paid in respect of a dependent if the dependent were in the territory of that Party, such benefit shall be paid if the dependant is in the territory of the other Party.

(2) The provisions of paragraph (1) of this Article shall not apply to guardian's allowances or family allowances payable under the legislation of either Party.

Article 35

Subject to the provisions of Articles 24 and 36, any person claiming a benefit under the legislation of either Contracting Party may choose to have his claim settled without regard to the provisions of the present Convention.

Article 36

(1) Where a national of either Contracting Party who is entitled to receive a cash benefit under the legislation of one Party, claims a cash benefit under the legislation of the other Party, any provision of the legislation of the latter Party which restricts the right to receive one benefit by reason of the receipt of another benefit or of earnings shall apply to that national as if the benefit payable under the legislation of the former Party were a corresponding benefit payable under the legislation of the latter Party.

(2) The provisions of paragraph (1) of this Article shall not apply to two benefits of the same kind paid in accordance with the provisions of Article 18 or Section 3 of this Part of the present Convention.

PART V

MISCELLANEOUS PROVISIONS

Article 37

The competent authorities—

FRANCE

N.I.AND.I.I. (FRANCE) ORDER 1958

- (1) shall make such administrative arrangements as may be required for the application of the present Convention;
- (2) shall communicate to each other information regarding any measure taken by them for the application of the Convention;
- (3) shall communicate to each other, as soon as possible, information regarding any changes made under their national legislation which affect the application of the Convention.

Article 38

(1) The competent authorities and the social security authorities of the two Contracting Parties shall furnish assistance to one another with regard to any matter relating to the application of the present Convention as if the matter were one affecting the application of their own national legislation.

(2) The competent authorities shall, in particular, agree upon the measures to be adopted for the medical and administrative supervision of persons entitled to benefit by virtue of the present Convention.

Article 39

(1) Any exemption from, or reduction of, legal dues, charges and fees, provided for in the legislation of one Contracting Party in connection with the issue of any certificate or document required to be produced for the purposes of that legislation shall be extended to certificates and documents required to be produced for the purposes of the legislation of the other Party.

(2) Where any certificate or other document has to be produced to the competent authority or social security authority of one (or the other) Party for the purpose of applying the present Convention, that authority shall not require the certificate or other document to be authenticated by the diplomatic or consular authorities.

Article 40

Any claim, notice or appeal which should, for the purposes of the legislation of one Contracting Party, have been presented within a prescribed period to a social security authority of that Party, but which is in fact presented within the same period to a social security authority of the other Party, shall be treated as if it had been presented to the social security authority of the former Party. In such cases, the social security authority of the latter Party shall, as soon as possible, transmit the claim, notice or appeal to the appropriate social security authority of the former Party.

Article 41

The social security authorities of the Contracting Parties may, for the purpose of applying the present Convention, correspond directly with one another, or with any person entitled to receive any benefit by virtue of the present Convention, or with his representative.

Article 42

The amount of any benefit due in accordance with the provisions of the present Convention shall be calculated in the currency of the Contracting Party whose social security authority is responsible for such benefit.

Article 43

- (1) No provision of the present Convention shall confer any right to receive

any payment of benefit for a period before the date of the entry into force of the Convention.

(2) Subject to the provisions of paragraph (1) of this Article, benefit, other than lump sum payments, shall be payable in accordance with the provisions of the Convention in respect of events which happened before the date of its entry into force, and, for this purpose—

- (a) any benefit which has not been awarded because the person concerned has not made a claim or is absent from the territory of either Party shall be determined and paid;
- (b) any benefit which has been suspended because the person concerned is absent from the territory of either Party shall be paid;
- (c) any benefit which has been determined shall, where necessary, be determined afresh provided that its capital value has not been liquidated.

(3) Any insurance period or equivalent period which a national of either Party has completed before the date of the entry into force of the Convention shall be taken into account for the purpose of determining the right to receive benefit in accordance with the provisions of the Convention.

Article 44

The provisions of Article 3 shall not be deemed to modify any restrictions imposed by the legislation of either Contracting Party which affect the right of aliens to take part in elections held in connection with the management of any social security authority.

Article 45

(1) The competent authorities of the Contracting Parties shall endeavour to resolve by negotiation any disagreement relating to the interpretation or application of the present Convention.

(2) If any such disagreement has not been resolved by negotiation within a period of three months, the disagreement shall be submitted to arbitration by an arbitral body whose composition and procedure shall be agreed upon by the Contracting Parties, or, in default of such agreement within a further period of three months, by an arbitrator chosen at the request of either Party by the President of the International Court of Justice.

(3) The decision of the arbitral body, or arbitrator, as the case may be, shall be made in accordance with the principles and spirit of the present Convention and shall be final and binding.

Article 46

The two Contracting Parties shall conclude a supplementary agreement applying the provisions of the present Convention to Algeria.

Article 47

In the event of the termination of the present Convention, any right acquired by a person in accordance with its provisions shall be maintained, and negotiations shall take place for the settlement of any rights then in course of acquisition by virtue of those provisions.

Article 48

(1) Upon the entry into force of the present Convention the Agreement and

FRANCE

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Protocols of the 11th June, 1948,(a) the Agreements supplementary thereto of the 25th October, 1949,(b) and the 7th February, 1952,(c) the Agreements and Protocols of the 28th January, 1950,(d) regarding the Reciprocal Application of the Social Security schemes of France and Northern Ireland, and the Agreement of the 9th May, 1952,(e) supplementary thereto, shall be terminated and shall be replaced by the Convention and the Protocols thereto.

(2) Any right acquired by a person in accordance with the provisions of the Agreements and Protocols specified in paragraph (1) of this Article shall be maintained, and any rights in course of acquisition under those agreements at the date of the entry into force of the present Convention shall be settled in accordance with the provisions of the Convention and the Protocols thereto.

Article 49

The present Convention shall be ratified and the instruments of ratification shall be exchanged in London as soon as possible. The Convention shall enter into force on the first day of the second month following the month in which the instruments of ratification are exchanged.

Article 50

The present Convention shall remain in force for a period of one year from the date of its entry into force. Thereafter it shall continue in force from year to year unless it is denounced in writing three months before the expiry of any such yearly period.

In witness whereof the undersigned, duly authorised by their respective Governments, have signed the present Convention and affixed thereto their seals.

Done in duplicate at Paris on 10th day of July, 1956 in the English and French languages, both texts being equally authoritative.

(L.S.) *Gladwyn Jebb*

(L.S.) *R. Massigli.*

(a) "Treaty Series No. 19 (1949)," Cmd. 7651.

(b) "Treaty Series No. 67 (1949)," Cmd. 7816.

(c) "Treaty Series No. 26 (1952)," Cmd. 8577.

(d) "Treaty Series No. 25 (1951)," Cmd. 8213.

(e) "Treaty Series No. 48 (1952)," Cmd. 8645.

SPECIAL PROTOCOL RESPECTING HEALTH SERVICES

Paris, July 10, 1956

[This Special Protocol is not reproduced in this work.]

PROTOCOL RESPECTING OLD AGE ALLOWANCES FOR EMPLOYED AND NON-EMPLOYED PERSONS UNDER THE LEGISLATION OF FRANCE AND ASSISTANCE PROVIDED UNDER THE LEGISLATION OF THE UNITED KINGDOM

Paris, July 10, 1956

On signing this day the Convention on Social Security between the Governments of the United Kingdom of Great Britain and Northern Ireland and the French Republic, the undersigned, being duly authorised thereto, have agreed that, as the laws in force in the United Kingdom relating to National Assistance grant an allowance according to need to nationals of France residing in the territory of the United Kingdom, under the same conditions as if they were nationals of the United Kingdom, the old age allowance for employed persons provided under the laws in force in France shall henceforth be granted to nationals of the United Kingdom who have been employed in the territory of France and are resident in that territory, under the same conditions as if they were nationals of France, provided that they satisfy the necessary conditions as to age and needs.

2. It is also agreed that, as the laws in force in the United Kingdom relating to National Assistance apply to non-employed as well as to employed persons, the allowances for non-employed persons provided by the laws of France dated 17th January, 1948, and 10th July, 1952, and the special allowance established by the law of 10th July, 1952, shall be granted to nationals of the United Kingdom who are resident in the territory of France and have not paid contributions under a scheme of old age allowances for non-employed persons provided under the laws in force in France, under the same conditions as if they were nationals of France, provided they satisfy the necessary conditions as to age and needs and have resided continuously in the territory of France for a period of at least five years. The provisions of this paragraph shall be deemed to have had effect from 1st July, 1952.

3. The allowances mentioned in paragraphs 1 and 2 shall not continue to be paid to nationals of the United Kingdom who leave the territory of France.

Done in duplicate at Paris this 10th day of July, 1956, in the English and French languages, both texts being equally authoritative.

Gladwyn Jebb.

R. Massigli.

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order gives effect in England, Wales and Scotland to the Convention (set out in the Schedule) made between the Governments of the United Kingdom and of the French Republic and modifies the National Insurance Acts, 1946 to 1957, and the National Insurance (Industrial Injuries) Acts, 1946 to 1957, in their application to persons affected by the Convention.

EXCHANGE OF NOTES

BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE FRENCH REPUBLIC PROVIDING FOR IMPROVED SOCIAL INSURANCE PROTECTION FOR BRITISH TEACHERS WORKING IN FRANCE IN ACCORDANCE WITH THE CONVENTION OF 10 JULY 1956 ON SOCIAL SECURITY

(published, November, 1970, in Cmnd. 4484)

No. 1

[Note No. 1, which was written in French and sent, on 27.7.70, by the Minister Plenipotentiary, Director of the Administrative Conventions and Consular Affairs Department of the French Ministry of Foreign Affairs, to the British Chargé d'Affaires ad interim at Paris, is not reproduced here, but an English translation of it is included in the letter at No. 2 below.]

No. 2

*The British Chargé d'Affaires ad interim at Paris to the Minister
Plenipotentiary, Director of the Administrative Conventions and Consular
Affairs Department of the French Ministry of Foreign Affairs*

British Embassy, Paris, 30 July, 1970.

Monsieur le Ministre,

I have the honour to acknowledge receipt of your Note of the 27th of July 1970, which in translation reads as follows:-

“Article 8 of the Convention on Social Security signed on the 10th of July 1956(a) between France and the United Kingdom provides for exceptions to be made to certain Articles, including Article 4, by mutual agreement.

In conformity with this provision I have the honour to propose the adoption of the following measures intended to ensure better social insurance protection for British teachers, whilst spreading the cost of social security more evenly between our two states:-

- (i) British teachers working in France under a cultural exchange scheme falling within the Anglo/French Cultural Convention of the 2nd of March 1948(b) shall continue to be insured under British National Insurance Law;
- (ii) In these circumstances, they shall remain covered against the risks of invalidity and industrial injuries incurred in France during the period of their service in France;
- (iii) British teachers referred to in (i) above, and their dependents who accompany them, as defined under French legislation, shall be entitled during their stay to medical benefits in kind under sickness and maternity insurance on the same conditions as French civil servants;
- (iv) In this connection, the provisions of Article L 588 of the Social Security Code shall apply to them; however, the French Ministry of National Education shall be responsible for paying the double

(a) Treaty Series No. 44 (1958), Cmnd. 560.

(b) Treaty Series No. 36 (1948), Cmnd. 7450.

contribution for teachers employed by the competent British authorities; the other British teachers employed by France shall pay the same contributions as those paid by French civil servants.

I should be grateful if you would let me know if this proposal is acceptable to the British Government. If so, this Note and your reply shall be regarded as constituting an agreement between our two Governments in this matter.

It shall enter into force on the date of your reply and shall take effect on the first day of the school or University year following that date. The agreement shall remain in force for one year and thereafter shall continue in force by tacit consent unless either Government gives to the other three month's written notice of termination."

In reply I have the honour to inform you that the foregoing proposal is acceptable to the Government of the United Kingdom of Great Britain and Northern Ireland, who therefore agree that your Note and this reply shall be regarded as constituting an agreement between our two Governments in this matter. The agreement shall enter into force on this day's date and shall take effect on the first day of the next school or University year. The agreement shall remain in force for one year and thereafter shall continue in force by tacit consent unless either Government gives to the other three months' written notice of termination.

I avail myself of this opportunity to renew to you, Monsieur le Ministre, the assurance of my highest consideration.

A. M. Palliser,
Chargé d'Affaires ad interim.